

2009 DRAFTING REQUEST

Bill

Received: **01/16/2009**

Received By: **agary**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Byrnes**

This file may be shown to any legislator: **NO**

Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Transportation - traffic laws**

Extra Copies: **EVM, PJH, CMH, RLR**

Submit via email: **NO**

Pre Topic:

DOA:.....Byrnes, BB0457 -

Topic:

Primary enforcement of safety belt law and data collection related to traffic stops

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	agary 01/18/2009	bkraft 01/19/2009		_____ _____			S&L
/1			jfrantze 01/19/2009	_____ _____	mbarman 01/20/2009		S&L
/2	agary 01/30/2009	nnatzke 01/30/2009	rschluet 01/30/2009	_____ _____	cduerst 01/31/2009		

FE Sent For:

<END>

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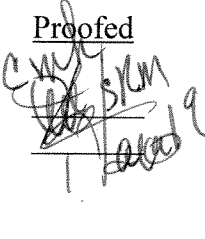
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/?	agary	1 bjk 1/19					

FE Sent For:

<END>

Gary, Aaron

From: Gary, Aaron
Sent: Saturday, January 17, 2009 10:42 AM
To: Byrnes, Tyler - DOA
Subject: RE: BB0457

Yes, with the data collection also.

Aaron

From: Byrnes, Tyler - DOA [mailto:Tyler.Byrnes@wisconsin.gov]
Sent: Sat 1/17/2009 8:56 AM
To: Gary, Aaron
Subject: RE: BB0457

Aaron,

The request you're refering to is for primary enforcement of the Safety Belt law, correct?

Tyler

From: Gary, Aaron [Aaron.Gary@legis.wisconsin.gov]
Sent: Friday, January 16, 2009 10:48 PM
To: Byrnes, Tyler - DOA
Cc: Grinde, Kirsten - DOA
Subject: BB0457

Tyler,

This request says that you essentially want the same draft as LRB-0546/1. Because LRB-0546 is unIntroduced and because of the LRB's strict (statutory) confidentiality rules, before I can use LRB-0546 to prepare your draft, I need to confirm that you have the draft. Can you either e-mail me that draft or identify for me the first word on p. 4, line 1 of it?

Thanks. Aaron

Aaron R. Gary
Attorney, Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

01/18/2009

Gary, Aaron

From: Grinde, Kirsten - DOA [kirsten.grinde@wisconsin.gov]
Sent: Saturday, January 17, 2009 2:59 PM
To: Gary, Aaron; Byrnes, Tyler - DOA
Subject: FW: Primary Enforcement & Data Collection
Attachments: 09-05461.pdf

Aaron,

Please see Representative Fields request and attached document below.

Thanks,

Kirsten

From: Schmiedicke, David P - DOA
Sent: Tuesday, January 06, 2009 2:36 PM
To: Grinde, Kirsten - DOA; Byrnes, Tyler - DOA
Cc: Kraus, Jennifer - DOA
Subject: FW: Primary Enforcement & Data Collection

Please include in DOT briefing document.

From: Schooff, Dan - DOA
Sent: Tuesday, January 06, 2009 2:13 PM
To: Kanninen, Dan - GOV; Schmiedicke, David P - DOA; Casper, Tim - GOV
Subject: FW: Primary Enforcement & Data Collection

Leg request that came into Michael Morgan.

From: Rep.Fields [mailto:Rep.Fields@legis.wisconsin.gov]
Sent: Tuesday, January 06, 2009 11:47 AM
To: Morgan, Michael L - DOA
Cc: Schooff, Dan - DOA; Moyer, Andrew - DOA
Subject: Primary Enforcement & Data Collection

Michael,

Attach is the bill I plan to introduce calling for primary enforcement of seat belts and data collection. I would like your support for including this language in the Governor's budget bill.

Thank you.

Jason Fields

01/18/2009

stays

RMNR

2009 BILL

SAV

TRANSPORTATION

Drivers and motor vehicles

the budget

1 AN ACT *to amend* 347.48 (2m) (gm) and 347.50 (2m) (a); and *to create* 165.842
2 and 165.85 (4) (b) 1d. f. of the statutes; **relating to:** enforcement of motor
3 vehicle safety belt violations, collection of information regarding motor vehicle
4 stops in certain counties, law enforcement training standards, granting
5 rule-making authority, and providing a penalty.

Analysis by the Legislative Reference Bureau**Primary enforcement of safety belt law**

Current law requires the use of safety belts (seat belts) in certain motor vehicles. With certain exceptions, no person may drive a motor vehicle unless he or she is properly restrained by a seat belt and unless each passenger not required to be in a child safety seat or booster seat is properly restrained by a seat belt. No person who is at least eight years old may be a passenger in the front seat of a motor vehicle, or in a seat other than the front seat for which a seat belt has been installed, unless that person is properly restrained. Current law prohibits a law enforcement officer from stopping or inspecting a motor vehicle solely to determine compliance with seat belt use requirements. The officer may, however, issue a citation for a violation observed in the course of a stop or inspection made for other purposes. A law enforcement officer may not take a person into physical custody solely for a violation of seat belt use requirements.

This bill authorizes a law enforcement officer to stop or inspect a vehicle solely to determine compliance with seat belt use requirements, subject to any

BILL

constitutional requirement that the officer have probable cause to believe that a violation has occurred. The bill also increases the penalty for violating this state's laws requiring the use of seat belts from \$10 to \$25. As under current law, violators pay no additional costs, fees, or assessments.

Collection of information regarding motor vehicle stops

Under current law, a law enforcement agency must collect information concerning each person that the law enforcement agency arrests or takes into custody, if the person has committed certain offenses or is a fugitive from justice. The information that the law enforcement agency must collect includes the person's fingerprints, photographs of the person's face and profile, and other available identifying data. The information collected must be forwarded to the Department of Justice (DOJ), which maintains the information for various law enforcement and reporting purposes.

This bill requires a law enforcement agency to collect the following information concerning motor vehicle stops made in any county having a population of 125,000 or more (populous county) on or after January 1, 2011: 1) the name, address, gender, and race of the operator of the motor vehicle (if the operator's race is not available through an electronic database or similar source, the officer must subjectively determine the operator's race as being Caucasian, African American, Hispanic, American Indian or Alaska Native, or Asian or Pacific Islander); 2) the reason for the motor vehicle stop; 3) the make and year of the motor vehicle; 4) the date, time, and location of the motor vehicle stop; 5) whether or not a law enforcement officer conducted a search of the motor vehicle, the operator, or any passenger and, if so, whether the search was with consent or by other means; 6) the name, address, gender, and race of any person searched; and 7) the name and badge number of the officer making the motor vehicle stop.

The information that is collected under the bill concerning motor vehicle stops is not subject to inspection or copying as a public record. The information, however, must be submitted to DOJ, which must then compile and analyze it, along with any other relevant information, to determine, both for each law enforcement agency and as an aggregated total for all law enforcement agencies in populous counties, whether the number of stops and searches involving motor vehicles operated or occupied by members of a racial minority are disproportionate compared to the number of stops and searches involving motor vehicles operated or occupied solely by persons who are not members of a racial minority. The determination of whether the number of stops and searches involving racial minorities is disproportionate must be based on an estimate of the population and characteristics of all persons traveling on highways in populous counties, on an estimate of the populations and characteristics of persons traveling on highways in populous counties who are violating a law or ordinance, or on some other relevant population estimate. If DOJ finds that the number of stops and searches involving racial minorities is disproportionate compared to the number of stops and searches involving nonminorities, DOJ must then determine whether that disproportion is the result of racial profiling, racial stereotyping, or other race-based discrimination or selective enforcement.

BILL

DOJ must prepare an annual report that summarizes the information submitted to it by law enforcement agencies and that describes the methods and conclusions of its analysis of the information. DOJ must also promulgate rules to implement the information collection requirement created in the bill, including rules prescribing a form for use in obtaining the information and establishing a schedule for submitting the information obtained to DOJ.

Law enforcement training standards

Under current law, no person may be appointed as a law enforcement officer unless the person has been certified by the Law Enforcement Standards Board (LESB) after completing a training program approved by LESB. Currently, LESB may establish minimum educational and training standards for law enforcement officers and minimum curriculum requirements for law enforcement officer training programs. Current law also contains specific requirements for law enforcement training programs, including the requirements that the programs provide training to enable officers to deal effectively with domestic abuse incidents and training on police pursuit standards.

This bill requires law enforcement training programs to provide training concerning cultural diversity, including sensitivity toward racial and ethnic differences. The training must be designed to prevent the use of race, racial profiling, racial stereotyping, or other race-based discrimination or selection as a basis for detaining, searching, or arresting a person or for otherwise treating a person differently from persons of other races and must emphasize the fact that the primary purposes of enforcement of traffic regulations are safety and equal and uniform enforcement under the law.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 1 **SECTION 1.** 165.842 of the statutes is created to read:
- 2 **165.842 Motor vehicle stops; collection and analysis of information;**
- 3 **annual report. (1) DEFINITIONS.** In this section:
- 4 (a) "Department" means the department of justice.
- 5 (b) "Law enforcement agency" has the meaning given in s. 165.77 (1) (b).
- 6 (c) "Law enforcement officer" means a person who is employed by a law
- 7 enforcement agency for the purpose of detecting and preventing crime and enforcing

BILL**SECTION 1**

1 laws or ordinances and who is authorized to make arrests for violations of the laws
2 or ordinances that the person is employed to enforce, whether that enforcement
3 authority extends to all laws or ordinances or is limited to specific laws or ordinances.

4 (d) "Motor vehicle stop" means a stop or detention of a motor vehicle that is
5 traveling in, or the detention of an occupied motor vehicle that is already stopped in,
6 any public or private place in a county having a population of 125,000 or more, for
7 the purpose of investigating any alleged or suspected violation of a state or federal
8 law or city, village, town, or county ordinance.

9 (2) INFORMATION COLLECTION REQUIRED. All persons in charge of law
10 enforcement agencies shall obtain, or cause to be obtained, all of the following
11 information with respect to each motor vehicle stop made on or after January 1, 2011,
12 by a law enforcement officer employed by the law enforcement agency:

13 (a) The name, address, gender, and race of the operator of the motor vehicle.
14 If information regarding the operator's race is not available to the officer through an
15 electronic database or other similar source, the officer shall subjectively select the
16 operator's race from the following list:

- 17 1. Caucasian.
- 18 2. African American.
- 19 3. Hispanic.
- 20 4. American Indian or Alaska Native.
- 21 5. Asian or Pacific Islander.

22 (b) The reason that the officer stopped or detained the motor vehicle.

23 (c) The make and year of the motor vehicle.

24 (d) The date, time, and location of the motor vehicle stop.

BILL

1 (e) Whether or not a law enforcement officer conducted a search of the motor
2 vehicle, the operator, or any passenger and, if so, whether the search was with
3 consent or by other means.

4 (f) The name, address, gender, and race of any person searched, with the officer
5 obtaining information regarding the person's race from any available electronic
6 database or other similar source if possible or, if not possible, by subjectively
7 selecting the person's race from the list under par. (a).

8 (g) The name and badge number of the officer making the motor vehicle stop.

9 **(3) SUBMISSION OF INFORMATION COLLECTED.** The person in charge of a law
10 enforcement agency shall submit the information obtained under sub. (2) to the
11 department using the form prescribed by the rules promulgated under sub. (5) and
12 in accordance with the reporting schedule established under the rules promulgated
13 under sub. (5).

14 **(4) ANALYSIS AND REPORT BY DEPARTMENT.** (a) The department shall compile the
15 information submitted to it by law enforcement agencies under sub. (3) and shall
16 analyze the information, along with any other relevant information, to determine,
17 both for each law enforcement agency submitting information under sub. (3) and as
18 an aggregated total for all law enforcement agencies submitting information under
19 sub. (3), all of the following:

20 1. Whether the number of motor vehicle stops and searches involving motor
21 vehicles operated or occupied by members of a racial minority compared to the
22 number of motor vehicle stops and searches involving motor vehicles operated or
23 occupied solely by persons who are not members of a racial minority is
24 disproportionate based on an estimate of the population and characteristics of
25 persons traveling on highways in the counties for which information is submitted

BILL**SECTION 1**

1 under sub. (3), on an estimate of the populations and characteristics of persons
2 traveling on highways in the counties for which information is submitted under sub.
3 (3) who are violating a law or ordinance, or on some other relevant population
4 estimate.

5 2. A determination as to whether any disproportion found under subd. 1. is the
6 result of racial profiling, racial stereotyping, or other race-based discrimination or
7 selective enforcement.

8 (b) For each year, the department shall prepare an annual report that
9 summarizes the information submitted to it under sub. (3) concerning motor vehicle
10 stops made during the year and that describes the methods and conclusions of its
11 analysis of the information. On or before March 31, 2012, and on or before each
12 March 31 thereafter, the department shall submit the annual report required under
13 this paragraph to the legislature under s. 13.172 (2), to the governor, and to the
14 director of state courts.

15 (5) RULES. The department shall promulgate rules to implement the
16 requirements of this section, including rules prescribing a form for use in obtaining
17 information under sub. (2) and establishing a schedule for submitting the
18 information obtained to the department. The department shall make the form
19 prescribed by its rules available to law enforcement agencies. The department may,
20 by rule, require the collection of information in addition to that specified in sub. (2)
21 (a) to (g) if the department determines that the information will help to make the
22 determinations required under sub. (4) (a).

23 (6) ACCESS TO RECORDS. Information collected under sub. (2) is not subject to
24 inspection or copying under s. 19.35 (1).

25 **SECTION 2.** 165.85 (4) (b) 1d. f. of the statutes is created to read:

BILL

1 165.85 (4) (b) 1d. f. Training concerning cultural diversity, including sensitivity
2 toward racial and ethnic differences. The training shall be designed to prevent the
3 use of race, racial profiling, racial stereotyping, or other race-based discrimination
4 or selection as a basis for detaining, searching, or arresting a person or for otherwise
5 treating a person differently from persons of other races and shall emphasize the fact
6 that the primary purposes of enforcement of traffic regulations are safety and equal
7 and uniform enforcement under the law.

8 **SECTION 3.** 347.48 (2m) (gm) of the statutes is amended to read:

9 347.48 (2m) (gm) ~~Notwithstanding s. 349.02, a law enforcement officer may not~~
10 ~~stop or inspect a vehicle solely to determine compliance with this subsection or sub.~~
11 ~~(1) or (2) or a local ordinance in conformity with this subsection, sub. (1) or (2) or rules~~
12 ~~of the department. This paragraph does not limit the authority of a law enforcement~~
13 ~~officer to issue a citation for a violation of this subsection or sub. (1) or (2) or a local~~
14 ~~ordinance in conformity with this subsection, sub. (1) or (2) or rules of the department~~
15 ~~observed in the course of a stop or inspection made for other purposes, except that~~
16 ~~a~~ A law enforcement officer may not take a person into physical custody solely for
17 a violation of this subsection or sub. (1) or (2) or a local ordinance in conformity with
18 this subsection, sub. (1) or (2) or rules of the department.

19 **SECTION 4.** 347.50 (2m) (a) of the statutes is amended to read:

20 347.50 (2m) (a) Any person who violates s. 347.48 (2m) (b) or (c) and any person
21 16 years of age or older who violates s. 347.48 (2m) (d) may be required to forfeit \$10
22 \$25.

23 **SECTION 5. Initial applicability.**

9350 (B)

Transportation (B)

BILL

CS

belts

Primary enforcement of safety belts

1

(1) The treatment of section 347.50 (2m) (a) of the statutes first applies to

2

violations committed on the effective date of this subsection.

3

(END)

Gary, Aaron

To: Hanaman, Cathlene

Subject: RE: FY09 effective date issues

Aaron R. Gary
Attorney, Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Hanaman, Cathlene
Sent: Friday, January 30, 2009 3:28 PM
To: Ryan, Robin; Kahler, Pam; Gary, Aaron
Subject: FW: FY09 effective date issues

I think we agreed to use the simple language:

"The treatment of x takes effect on the day after publication."

So I think these drafts need to be redrafted to have this language. If you need help, please let me know.

From: Kraus, Jennifer - DOA [mailto:jennifer.kraus@wisconsin.gov]
Sent: Friday, January 30, 2009 1:36 PM
To: Champagne, Rick; Hanaman, Cathlene
Cc: DOA DL Budget TL
Subject: FY09 effective date issues

Rick/Cathlene - as we have discussed, the following is a list of FY09 issues that will be incorporated into the budget bill but that must be resolved before July 1, 2009. Pls modify the effective date of these changes in order to be "upon passage" based on the assumption that the bill will pass before July 1, 2009.

If it looks like the budget bill is not going to pass before July 1, 2009 - we will have to introduce a separate bill to address these changes.

Make sense? Thanks -- Jenny

FY09 Issues
Primary enforcement of the safety belt law arg

01/30/2009



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1606/12

ARG:bjk/jf

+nwn (RMR)

DOA:.....Byrnes, BB0457 - Primary enforcement of safety belt law and data collection related to traffic stops

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

Change on p. 7

D-Note

don't gen.

- 1 AN ACT *to amend* 347.48 (2m) (gm) and 347.50 (2m) (a); and *to create* 165.842
2 and 165.85 (4) (b) 1d. f. of the statutes; **relating to:** the budget.

Analysis by the Legislative Reference Bureau

TRANSPORTATION

DRIVERS AND MOTOR VEHICLES

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This bill authorizes a law enforcement officer to stop or inspect a vehicle solely to determine compliance with seat belt use requirements, subject to any constitutional requirement that the officer have probable cause to believe that a

violation has occurred. The bill also increases the penalty for violating this state's laws requiring the use of seat belts from \$10 to \$25. As under current law, violators pay no additional costs, fees, or assessments.

JUSTICE

Under current law, a law enforcement agency must collect information concerning each person that the law enforcement agency arrests or takes into custody, if the person has committed certain offenses or is a fugitive from justice. The information that the law enforcement agency must collect includes the person's fingerprints, photographs of the person's face and profile, and other available identifying data. The information collected must be forwarded to DOJ, which maintains the information for various law enforcement and reporting purposes.

This bill requires a law enforcement agency to collect the following information concerning motor vehicle stops made in any county having a population of 125,000 or more (populous county) on or after January 1, 2011: 1) the name, address, gender, and race of the operator of the motor vehicle (if the operator's race is not available through an electronic database or similar source, the officer must subjectively determine the operator's race as being Caucasian, African American, Hispanic, American Indian or Alaska Native, or Asian or Pacific Islander); 2) the reason for the motor vehicle stop; 3) the make and year of the motor vehicle; 4) the date, time, and location of the motor vehicle stop; 5) whether or not a law enforcement officer conducted a search of the motor vehicle, the operator, or any passenger and, if so, whether the search was with consent or by other means; 6) the name, address, gender, and race of any person searched; and 7) the name and badge number of the officer making the motor vehicle stop.

The information that is collected under the bill concerning motor vehicle stops is not subject to inspection or copying as a public record. The information, however, must be submitted to DOJ, which must then compile and analyze it, along with any other relevant information, to determine, both for each law enforcement agency and as an aggregated total for all law enforcement agencies in populous counties, whether the number of stops and searches involving motor vehicles operated or occupied by members of a racial minority are disproportionate compared to the number of stops and searches involving motor vehicles operated or occupied solely by persons who are not members of a racial minority. The determination of whether the number of stops and searches involving racial minorities is disproportionate must be based on an estimate of the population and characteristics of all persons traveling on highways in populous counties, on an estimate of the populations and characteristics of persons traveling on highways in populous counties who are violating a law or ordinance, or on some other relevant population estimate. If DOJ finds that the number of stops and searches involving racial minorities is disproportionate compared to the number of stops and searches involving nonminorities, DOJ must then determine whether that disproportion is the result of racial profiling, racial stereotyping, or other race-based discrimination or selective enforcement.

DOJ must prepare an annual report that summarizes the information submitted to it by law enforcement agencies and that describes the methods and

conclusions of its analysis of the information. DOJ must also promulgate rules to implement the information collection requirement created in the bill, including rules prescribing a form for use in obtaining the information and establishing a schedule for submitting the information obtained to DOJ.

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This bill requires law enforcement training programs to provide training concerning cultural diversity, including sensitivity toward racial and ethnic differences. The training must be designed to prevent the use of race, racial profiling, racial stereotyping, or other race-based discrimination or selection as a basis for detaining, searching, or arresting a person or for otherwise treating a person differently from persons of other races and must emphasize the fact that the primary purposes of enforcement of traffic regulations are safety and equal and uniform enforcement under the law.

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2 **165.842 Motor vehicle stops; collection and analysis of information;**

3 **annual report. (1) DEFINITIONS.** In this section:

4 (a) "Department" means the department of justice.

5 (b) "Law enforcement agency" has the meaning given in s. 165.77 (1) (b).

6 (c) "Law enforcement officer" means a person who is employed by a law
7 enforcement agency for the purpose of detecting and preventing crime and enforcing
8 laws or ordinances and who is authorized to make arrests for violations of the laws
9 or ordinances that the person is employed to enforce, whether that enforcement
10 authority extends to all laws or ordinances or is limited to specific laws or ordinances.

1 (d) "Motor vehicle stop" means a stop or detention of a motor vehicle that is
2 traveling in, or the detention of an occupied motor vehicle that is already stopped in,
3 any public or private place in a county having a population of 125,000 or more, for
4 the purpose of investigating any alleged or suspected violation of a state or federal
5 law or city, village, town, or county ordinance.

6 (2) INFORMATION COLLECTION REQUIRED. All persons in charge of law
7 enforcement agencies shall obtain, or cause to be obtained, all of the following
8 information with respect to each motor vehicle stop made on or after January 1, 2011,
9 by a law enforcement officer employed by the law enforcement agency:

10 (a) The name, address, gender, and race of the operator of the motor vehicle.
11 If information regarding the operator's race is not available to the officer through an
12 electronic database or other similar source, the officer shall subjectively select the
13 operator's race from the following list:

- 14 1. Caucasian.
- 15 2. African American.
- 16 3. Hispanic.
- 17 4. American Indian or Alaska Native.
- 18 5. Asian or Pacific Islander.

19 (b) The reason that the officer stopped or detained the motor vehicle.

20 (c) The make and year of the motor vehicle.

21 (d) The date, time, and location of the motor vehicle stop.

22 (e) Whether or not a law enforcement officer conducted a search of the motor
23 vehicle, the operator, or any passenger and, if so, whether the search was with
24 consent or by other means.

1 (f) The name, address, gender, and race of any person searched, with the officer
2 obtaining information regarding the person's race from any available electronic
3 database or other similar source if possible or, if not possible, by subjectively
4 selecting the person's race from the list under par. (a).

5 (g) The name and badge number of the officer making the motor vehicle stop.

6 (3) SUBMISSION OF INFORMATION COLLECTED. The person in charge of a law
7 enforcement agency shall submit the information obtained under sub. (2) to the
8 department using the form prescribed by the rules promulgated under sub. (5) and
9 in accordance with the reporting schedule established under the rules promulgated
10 under sub. (5).

11 (4) ANALYSIS AND REPORT BY DEPARTMENT. (a) The department shall compile the
12 information submitted to it by law enforcement agencies under sub. (3) and shall
13 analyze the information, along with any other relevant information, to determine,
14 both for each law enforcement agency submitting information under sub. (3) and as
15 an aggregated total for all law enforcement agencies submitting information under
16 sub. (3), all of the following:

17 1. Whether the number of motor vehicle stops and searches involving motor
18 vehicles operated or occupied by members of a racial minority compared to the
19 number of motor vehicle stops and searches involving motor vehicles operated or
20 occupied solely by persons who are not members of a racial minority is
21 disproportionate based on an estimate of the population and characteristics of
22 persons traveling on highways in the counties for which information is submitted
23 under sub. (3), on an estimate of the populations and characteristics of persons
24 traveling on highways in the counties for which information is submitted under sub.

1 (3) who are violating a law or ordinance, or on some other relevant population
2 estimate.

3 2. A determination as to whether any disproportion found under subd. 1. is the
4 result of racial profiling, racial stereotyping, or other race-based discrimination or
5 selective enforcement.

6 (b) For each year, the department shall prepare an annual report that
7 summarizes the information submitted to it under sub. (3) concerning motor vehicle
8 stops made during the year and that describes the methods and conclusions of its
9 analysis of the information. On or before March 31, 2012, and on or before each
10 March 31 thereafter, the department shall submit the annual report required under
11 this paragraph to the legislature under s. 13.172 (2), to the governor, and to the
12 director of state courts.

13 (5) RULES. The department shall promulgate rules to implement the
14 requirements of this section, including rules prescribing a form for use in obtaining
15 information under sub. (2) and establishing a schedule for submitting the
16 information obtained to the department. The department shall make the form
17 prescribed by its rules available to law enforcement agencies. The department may,
18 by rule, require the collection of information in addition to that specified in sub. (2)
19 (a) to (g) if the department determines that the information will help to make the
20 determinations required under sub. (4) (a).

21 (6) ACCESS TO RECORDS. Information collected under sub. (2) is not subject to
22 inspection or copying under s. 19.35 (1).

23 SECTION 2. 165.85 (4) (b) 1d. f. of the statutes is created to read:

24 165.85 (4) (b) 1d. f. Training concerning cultural diversity, including sensitivity
25 toward racial and ethnic differences. The training shall be designed to prevent the

1 use of race, racial profiling, racial stereotyping, or other race-based discrimination
2 or selection as a basis for detaining, searching, or arresting a person or for otherwise
3 treating a person differently from persons of other races and shall emphasize the fact
4 that the primary purposes of enforcement of traffic regulations are safety and equal
5 and uniform enforcement under the law.

6 **SECTION 3.** 347.48 (2m) (gm) of the statutes is amended to read:

7 347.48 (2m) (gm) ~~Notwithstanding s. 349.02, a law enforcement officer may not~~
8 ~~stop or inspect a vehicle solely to determine compliance with this subsection or sub.~~
9 ~~(1) or (2) or a local ordinance in conformity with this subsection, sub. (1) or (2) or rules~~
10 ~~of the department. This paragraph does not limit the authority of a law enforcement~~
11 ~~officer to issue a citation for a violation of this subsection or sub. (1) or (2) or a local~~
12 ~~ordinance in conformity with this subsection, sub. (1) or (2) or rules of the department~~
13 ~~observed in the course of a stop or inspection made for other purposes, except that~~
14 a- A law enforcement officer may not take a person into physical custody solely for
15 a violation of this subsection or sub. (1) or (2) or a local ordinance in conformity with
16 this subsection, sub. (1) or (2) or rules of the department.

17 **SECTION 4.** 347.50 (2m) (a) of the statutes is amended to read:

18 347.50 (2m) (a) Any person who violates s. 347.48 (2m) (b) or (c) and any person
19 16 years of age or older who violates s. 347.48 (2m) (d) may be required to forfeit \$10
20 \$25.

21 **SECTION 9350. Initial applicability; Transportation**

22 *← create A.R. A*
(1) PRIMARY ENFORCEMENT OF SAFETY BELTS. The treatment of section 347.50 (2m)
23 (a) of the statutes first applies to violations committed on the effective date of this
24 subsection.

25 (END)

insert
7-20

J-Note

**2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1606/2ins
ARG:.....

INSERT 7-20:

SECTION 9430. Effective dates; Justice.

(1) MOTOR VEHICLE STOP DATA COLLECTION. The treatment of sections 165.842 and 165.85 (4) (b) 1d. f. of the statutes takes effect on the day after publication.

SECTION 9450. Effective dates; Transportation.

(1) PRIMARY ENFORCEMENT OF SAFETY BELTS. The treatment of sections 347.48 (2m) (gm) and 347.50 (2m) (a) of the statutes and SECTION 9350 (1) of this act takes effect on the day after publication.

↑
use A.R. A

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU
Date

LRB-1606/2dn

ARG:1:....

nwn

ATTN: Tyler Byrnes

This redraft adds effective date provisions that allow for the possibility of an effective date before July 1, 2009.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

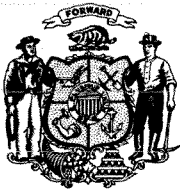
LRB-1606/2dn
ARG:nwn:rs

January 30, 2009

ATTN: Tyler Byrnes

This redraft adds effective date provisions that allow for the possibility of an effective date before July 1, 2009.

Aaron R. Gary
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State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1606/2
ARG:bjk&nwn:rs

DOA:.....Byrnes, BB0457 - Primary enforcement of safety belt law and data collection related to traffic stops

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

- 1 AN ACT *to amend* 347.48 (2m) (gm) and 347.50 (2m) (a); and *to create* 165.842
2 and 165.85 (4) (b) 1d. f. of the statutes; **relating to:** the budget.

Analysis by the Legislative Reference Bureau

TRANSPORTATION

DRIVERS AND MOTOR VEHICLES

Current law requires the use of safety belts (seat belts) in certain motor vehicles. With certain exceptions, no person may drive a motor vehicle unless he or she is properly restrained by a seat belt and unless each passenger not required to be in a child safety seat or booster seat is properly restrained by a seat belt. No person who is at least eight years old may be a passenger in the front seat of a motor vehicle, or in a seat other than the front seat for which a seat belt has been installed, unless that person is properly restrained. Current law prohibits a law enforcement officer from stopping or inspecting a motor vehicle solely to determine compliance with seat belt use requirements. The officer may, however, issue a citation for a violation observed in the course of a stop or inspection made for other purposes. A law enforcement officer may not take a person into physical custody solely for a violation of seat belt use requirements.

This bill authorizes a law enforcement officer to stop or inspect a vehicle solely to determine compliance with seat belt use requirements, subject to any constitutional requirement that the officer have probable cause to believe that a

violation has occurred. The bill also increases the penalty for violating this state's laws requiring the use of seat belts from \$10 to \$25. As under current law, violators pay no additional costs, fees, or assessments.

JUSTICE

Under current law, a law enforcement agency must collect information concerning each person that the law enforcement agency arrests or takes into custody, if the person has committed certain offenses or is a fugitive from justice. The information that the law enforcement agency must collect includes the person's fingerprints, photographs of the person's face and profile, and other available identifying data. The information collected must be forwarded to DOJ, which maintains the information for various law enforcement and reporting purposes.

This bill requires a law enforcement agency to collect the following information concerning motor vehicle stops made in any county having a population of 125,000 or more (populous county) on or after January 1, 2011: 1) the name, address, gender, and race of the operator of the motor vehicle (if the operator's race is not available through an electronic database or similar source, the officer must subjectively determine the operator's race as being Caucasian, African American, Hispanic, American Indian or Alaska Native, or Asian or Pacific Islander); 2) the reason for the motor vehicle stop; 3) the make and year of the motor vehicle; 4) the date, time, and location of the motor vehicle stop; 5) whether or not a law enforcement officer conducted a search of the motor vehicle, the operator, or any passenger and, if so, whether the search was with consent or by other means; 6) the name, address, gender, and race of any person searched; and 7) the name and badge number of the officer making the motor vehicle stop.

The information that is collected under the bill concerning motor vehicle stops is not subject to inspection or copying as a public record. The information, however, must be submitted to DOJ, which must then compile and analyze it, along with any other relevant information, to determine, both for each law enforcement agency and as an aggregated total for all law enforcement agencies in populous counties, whether the number of stops and searches involving motor vehicles operated or occupied by members of a racial minority are disproportionate compared to the number of stops and searches involving motor vehicles operated or occupied solely by persons who are not members of a racial minority. The determination of whether the number of stops and searches involving racial minorities is disproportionate must be based on an estimate of the population and characteristics of all persons traveling on highways in populous counties, on an estimate of the populations and characteristics of persons traveling on highways in populous counties who are violating a law or ordinance, or on some other relevant population estimate. If DOJ finds that the number of stops and searches involving racial minorities is disproportionate compared to the number of stops and searches involving nonminorities, DOJ must then determine whether that disproportion is the result of racial profiling, racial stereotyping, or other race-based discrimination or selective enforcement.

DOJ must prepare an annual report that summarizes the information submitted to it by law enforcement agencies and that describes the methods and

conclusions of its analysis of the information. DOJ must also promulgate rules to implement the information collection requirement created in the bill, including rules prescribing a form for use in obtaining the information and establishing a schedule for submitting the information obtained to DOJ.

Under current law, no person may be appointed as a law enforcement officer unless the person has been certified by the Law Enforcement Standards Board (LESB) after completing a training program approved by LESB. Currently, LESB may establish minimum educational and training standards for law enforcement officers and minimum curriculum requirements for law enforcement officer training programs. Current law also contains specific requirements for law enforcement training programs, including the requirements that the programs provide training to enable officers to deal effectively with domestic abuse incidents and training on police pursuit standards.

This bill requires law enforcement training programs to provide training concerning cultural diversity, including sensitivity toward racial and ethnic differences. The training must be designed to prevent the use of race, racial profiling, racial stereotyping, or other race-based discrimination or selection as a basis for detaining, searching, or arresting a person or for otherwise treating a person differently from persons of other races and must emphasize the fact that the primary purposes of enforcement of traffic regulations are safety and equal and uniform enforcement under the law.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 165.842 of the statutes is created to read:

2 **165.842 Motor vehicle stops; collection and analysis of information;**

3 **annual report. (1) DEFINITIONS.** In this section:

4 (a) "Department" means the department of justice.

5 (b) "Law enforcement agency" has the meaning given in s. 165.77 (1) (b).

6 (c) "Law enforcement officer" means a person who is employed by a law
7 enforcement agency for the purpose of detecting and preventing crime and enforcing
8 laws or ordinances and who is authorized to make arrests for violations of the laws
9 or ordinances that the person is employed to enforce, whether that enforcement
10 authority extends to all laws or ordinances or is limited to specific laws or ordinances.

SECTION 1

1 (d) "Motor vehicle stop" means a stop or detention of a motor vehicle that is
2 traveling in, or the detention of an occupied motor vehicle that is already stopped in,
3 any public or private place in a county having a population of 125,000 or more, for
4 the purpose of investigating any alleged or suspected violation of a state or federal
5 law or city, village, town, or county ordinance.

6 (2) INFORMATION COLLECTION REQUIRED. All persons in charge of law
7 enforcement agencies shall obtain, or cause to be obtained, all of the following
8 information with respect to each motor vehicle stop made on or after January 1, 2011,
9 by a law enforcement officer employed by the law enforcement agency:

10 (a) The name, address, gender, and race of the operator of the motor vehicle.
11 If information regarding the operator's race is not available to the officer through an
12 electronic database or other similar source, the officer shall subjectively select the
13 operator's race from the following list:

- 14 1. Caucasian.
- 15 2. African American.
- 16 3. Hispanic.
- 17 4. American Indian or Alaska Native.
- 18 5. Asian or Pacific Islander.

19 (b) The reason that the officer stopped or detained the motor vehicle.

20 (c) The make and year of the motor vehicle.

21 (d) The date, time, and location of the motor vehicle stop.

22 (e) Whether or not a law enforcement officer conducted a search of the motor
23 vehicle, the operator, or any passenger and, if so, whether the search was with
24 consent or by other means.

1 (f) The name, address, gender, and race of any person searched, with the officer
2 obtaining information regarding the person's race from any available electronic
3 database or other similar source if possible or, if not possible, by subjectively
4 selecting the person's race from the list under par. (a).

5 (g) The name and badge number of the officer making the motor vehicle stop.

6 **(3) SUBMISSION OF INFORMATION COLLECTED.** The person in charge of a law
7 enforcement agency shall submit the information obtained under sub. (2) to the
8 department using the form prescribed by the rules promulgated under sub. (5) and
9 in accordance with the reporting schedule established under the rules promulgated
10 under sub. (5).

11 **(4) ANALYSIS AND REPORT BY DEPARTMENT.** (a) The department shall compile the
12 information submitted to it by law enforcement agencies under sub. (3) and shall
13 analyze the information, along with any other relevant information, to determine,
14 both for each law enforcement agency submitting information under sub. (3) and as
15 an aggregated total for all law enforcement agencies submitting information under
16 sub. (3), all of the following:

17 1. Whether the number of motor vehicle stops and searches involving motor
18 vehicles operated or occupied by members of a racial minority compared to the
19 number of motor vehicle stops and searches involving motor vehicles operated or
20 occupied solely by persons who are not members of a racial minority is
21 disproportionate based on an estimate of the population and characteristics of
22 persons traveling on highways in the counties for which information is submitted
23 under sub. (3), on an estimate of the populations and characteristics of persons
24 traveling on highways in the counties for which information is submitted under sub.

1 (3) who are violating a law or ordinance, or on some other relevant population
2 estimate.

3 2. A determination as to whether any disproportion found under subd. 1. is the
4 result of racial profiling, racial stereotyping, or other race-based discrimination or
5 selective enforcement.

6 (b) For each year, the department shall prepare an annual report that
7 summarizes the information submitted to it under sub. (3) concerning motor vehicle
8 stops made during the year and that describes the methods and conclusions of its
9 analysis of the information. On or before March 31, 2012, and on or before each
10 March 31 thereafter, the department shall submit the annual report required under
11 this paragraph to the legislature under s. 13.172 (2), to the governor, and to the
12 director of state courts.

13 (5) RULES. The department shall promulgate rules to implement the
14 requirements of this section, including rules prescribing a form for use in obtaining
15 information under sub. (2) and establishing a schedule for submitting the
16 information obtained to the department. The department shall make the form
17 prescribed by its rules available to law enforcement agencies. The department may,
18 by rule, require the collection of information in addition to that specified in sub. (2)
19 (a) to (g) if the department determines that the information will help to make the
20 determinations required under sub. (4) (a).

21 (6) ACCESS TO RECORDS. Information collected under sub. (2) is not subject to
22 inspection or copying under s. 19.35 (1).

23 **SECTION 2.** 165.85 (4) (b) 1d. f. of the statutes is created to read:

24 165.85 (4) (b) 1d. f. Training concerning cultural diversity, including sensitivity
25 toward racial and ethnic differences. The training shall be designed to prevent the

1 use of race, racial profiling, racial stereotyping, or other race-based discrimination
2 or selection as a basis for detaining, searching, or arresting a person or for otherwise
3 treating a person differently from persons of other races and shall emphasize the fact
4 that the primary purposes of enforcement of traffic regulations are safety and equal
5 and uniform enforcement under the law.

6 **SECTION 3.** 347.48 (2m) (gm) of the statutes is amended to read:

7 347.48 (2m) (gm) ~~Notwithstanding s. 349.02, a law enforcement officer may not~~
8 ~~stop or inspect a vehicle solely to determine compliance with this subsection or sub.~~
9 ~~(1) or (2) or a local ordinance in conformity with this subsection, sub. (1) or (2) or rules~~
10 ~~of the department. This paragraph does not limit the authority of a law enforcement~~
11 ~~officer to issue a citation for a violation of this subsection or sub. (1) or (2) or a local~~
12 ~~ordinance in conformity with this subsection, sub. (1) or (2) or rules of the department~~
13 ~~observed in the course of a stop or inspection made for other purposes, except that~~
14 ~~a~~ A law enforcement officer may not take a person into physical custody solely for
15 a violation of this subsection or sub. (1) or (2) or a local ordinance in conformity with
16 this subsection, sub. (1) or (2) or rules of the department.

17 **SECTION 4.** 347.50 (2m) (a) of the statutes is amended to read:

18 347.50 (2m) (a) Any person who violates s. 347.48 (2m) (b) or (c) and any person
19 16 years of age or older who violates s. 347.48 (2m) (d) may be required to forfeit \$10
20 \$25.

21 **SECTION 9350. Initial applicability; Transportation**

22 (1) PRIMARY ENFORCEMENT OF SAFETY BELTS. The treatment of section 347.50 (2m)
23 (a) of the statutes first applies to violations committed on the effective date of this
24 subsection.

25 **SECTION 9430. Effective dates; Justice.**

(1) MOTOR VEHICLE STOP DATA COLLECTION. The treatment of sections 165.842 and 165.85 (4) (b) 1d. f. of the statutes takes effect on the day after publication.

SECTION 9450. Effective dates; Transportation.

(1) PRIMARY ENFORCEMENT OF SAFETY BELTS. The treatment of sections 347.48 (2m) (gm) and 347.50 (2m) (a) of the statutes and SECTION 9350 (1) of this act takes effect on the day after publication.

(END)